

California Regional Water Quality Control Board  
Santa Ana Region

June 4, 2004

ITEM NO. 9

SUBJECT: Appeal of Staff's Denial of an Exemption from the Minimum Lot Size Requirement for Subsurface Disposal System Use – Woodrow and Carolyn Phipps, 33328 Orchard, Wildomar, APN 345-220-047

DISCUSSION:

On May 7, 2004, Carolyn Phipps contacted staff requesting an exemption from the Board's minimum lot size requirements for the use of a septic tank-subsurface disposal system on a 0.49-acre lot at 33328 Orchard in Wildomar. The Phipps wish to install a second mobile home and septic tank-subsurface disposal system on this lot.

There is currently one mobile home on the lot that is connected to an existing septic tank-subsurface disposal system. This area of Wildomar is unsewered. The Phipps purchased the lot/mobile home with the intention to purchase a second mobile home to be placed on the lot where they could care for their son.

On October 13, 1989, the Regional Board adopted Resolution No. 89-157, which requires new developments for which on-site subsurface disposal system use is proposed to have a minimum one-half acre of land per dwelling unit. The Board found that it was necessary to limit the density of new subsurface disposal systems to control the nitrate quality problems found in the groundwater of the Region. The Phipps' proposed development is a new development as defined in Resolution No. 89-157 and is therefore subject to the minimum lot size requirements specified therein. With a density of 0.245 acres per dwelling unit, the Phipps' proposal does not comply with the Board's minimum lot size requirements. Accordingly, Board staff denied the Phipps' request for an exemption from the minimum lot size requirements.

The Phipps note that the additional flows that would occur as a result of this project would be no greater than the flows that would be allowed if they were to add on to the existing house and replace the existing septic tank to accommodate the increased flows, which would be exempt from the minimum lot size criteria. On this basis, the Phipps are appealing to the Regional Board for reversal of staff's denial of an exemption from the minimum lot size requirements.

The minimum lot size exemption criteria to be used by Board staff specify that replacement of existing septic tank-subsurface disposal systems to allow additional flows resulting from additions to existing dwelling units is exempt from the one half acre requirement. However, the Board's exemption criteria specifically state that such an exemption does not apply to the addition of freestanding structures, such as a second mobile home on the Phipps' property. In establishing the exemption criteria, the Board made this distinction because of the potential that

the addition of freestanding structures could result, either immediately or in the future, in substantially greater wastewater flows than would be expected as the result of additions to an existing dwelling.

While it is true that there would be no difference in wastewater flows on an immediate basis, i.e., while the Phipps own the property and their son resides with them, there can be no guarantee that wastewater flows would not increase considerably in the future. As stated above, it was on this basis that the Board determined not to exempt the addition of freestanding structures from the minimum lot size requirements. However, this is an exceptional case in that the proposed additional structure is also a mobile home. The Phipps have offered to remove the second mobile home and septic system from the property once it is no longer required and have agreed to enter into an Agreement of Restriction to be recorded with the property Chain of Title that stipulates that this property may not be sold until the second mobile home has been removed.

**RECOMMENDATION:**

Approve the Phipps' request for an exemption from the minimum lot size requirement specified in Resolution No. 89-157 with the following stipulations: 1) Once the mobile home is no longer required for use of the Phipps family, it shall be removed from the property, and 2) The Phipps must enter into an Agreement of Restriction, which shall become a part of the Chain of Title, that the property may not be sold until the second mobile home has been removed.

Comments were solicited from the following agencies:

State Water Resources Control Board, Office of Chief Counsel – Jorge Leon  
Riverside County Environmental Health – Sam Martinez/Greg Dellenbach  
Riverside County Building and Safety – Jim Miller  
Riverside County Planning – Mark Balys



# California Regional Water Quality Control Board

## Santa Ana Region



**Terry Tamminen**  
Secretary for  
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**Arnold Schwarzenegger**  
Governor

May 20, 2004

Woodrow and Carolyn Phipps  
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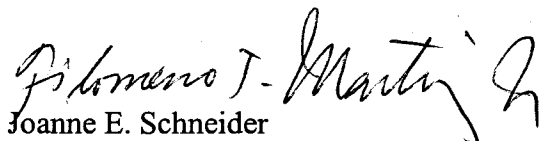
APPEAL TO THE REGIONAL BOARD FOR AN EXEMPTION FROM THE MINIMUM LOT SIZE REQUIREMENT FOR THE USE OF AN ONSITE SEPTIC TANK-SUBSURFACE DISPOSAL SYSTEM AT 33328 ORCHARD, WILDOMAR, RIVERSIDE COUNTY, APN 366-101-18

Dear Mr. and Mrs. Phipps:

This is in response to your request to appeal Regional Board staff's denial of an exemption from the minimum lot size requirement for subsurface disposal system use at the above-referenced site. Your appeal has been scheduled for consideration at the Board's June 4, 2004 meeting at City Council Chambers of Loma Linda, 25541 Barton Road, Loma Linda. The meeting is scheduled to begin at 9:00 a.m. A copy of the staff report that will be presented to the Board regarding this matter and the agenda announcement for the meeting are enclosed.

During the meeting, you will have an opportunity to present your case to the Board. If you have any questions about the proceedings, please contact Jun Martinez at (909) 782-3258 or Susan Beeson at (909) 782-4902.

Sincerely,

*for*   
Joanne E. Schneider  
Environmental Program Manager

Enclosures: Staff Report and Agenda Announcement

cc w/enc: State Water Resources Control Board, Office of the Chief Counsel – Jorge Leon  
Riverside County Environmental Health – Sam Martinez/Greg Dellenbach  
Riverside County Department of Building and Safety – Jim Miller  
Riverside County Planning – Mark Balys

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**California Environmental Protection Agency**

